

JAN 19 2007

A BILL FOR AN ACT

RELATING TO PROSTITUTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 712-1200, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§712-1200 Prostitution. (1) A person commits the offense
4 of prostitution if the person engages in, or agrees or offers to
5 engage in, sexual conduct with another person for a fee[-] in a
6 public place that is likely to be observed by others who would be
7 affronted or alarmed.

8 For purposes of this section a "public place" means any
9 street, sidewalk, bridge, alley or alleyway, plaza, driveway,
10 parking lot, or transportation facility, or the doorways and
11 entrance ways to any building that fronts on any of the
12 aforesaid places, or a motor vehicle in or on any of these
13 places except areas that are designated as exceptions to this
14 section by law.

15 (2) As used in subsection (1), "sexual conduct" means
16 "sexual penetration," "deviate sexual intercourse," or "sexual
17 contact," as those terms are defined in section 707-700.



1 ~~[(3) Prostitution is a petty misdemeanor.~~

2 ~~(4) A person convicted of committing the offense of~~
3 ~~prostitution shall be sentenced as follows:~~

4 ~~(a) For the first offense, when the court has not deferred~~
5 ~~further proceedings pursuant to chapter 853, a~~
6 ~~mandatory fine of \$500 and the person may be sentenced~~
7 ~~to a term of imprisonment of not more than thirty days~~
8 ~~or probation, provided that in the event the convicted~~
9 ~~person defaults in payment of the \$500 fine, and the~~
10 ~~default was not contumacious, the court may sentence~~
11 ~~the person to perform services for the community as~~
12 ~~authorized by section 706.605(1).~~

13 ~~(b) For any subsequent offense, a mandatory fine of \$500~~
14 ~~and a term of imprisonment of thirty days or~~
15 ~~probation, without possibility of deferral of further~~
16 ~~proceedings pursuant to chapter 853 and without~~
17 ~~possibility of suspension of sentence.~~

18 ~~(c) For the purpose of this subsection, if the court has~~
19 ~~deferred further proceedings pursuant to chapter 853,~~
20 ~~and notwithstanding any provision of chapter 853 to~~
21 ~~the contrary, the defendant shall not be eligible to~~
22 ~~apply for expungement pursuant to section 831.3.2~~



1 ~~until four years following discharge. A plea~~
2 ~~previously entered by a defendant under section 853-1~~
3 ~~for a violation of this section shall be considered a~~
4 ~~prior offense. When the court has ordered a sentence~~
5 ~~of probation, the court may impose as a condition of~~
6 ~~probation that the defendant complete a course of~~
7 ~~prostitution intervention classes, provided that the~~
8 ~~court may only impose such condition for one term of~~
9 ~~probation.]~~

10 (3) Prostitution is a violation, subject to a fine of up
11 to \$500.

12 (4) There is no penalty for engaging in, agreeing, or
13 offering to engage in acts of prostitution except the penalty
14 provisions of subsection (3).

15 (5) This section shall not apply to any member of a police
16 department, a sheriff, or a law enforcement officer acting in
17 the course and scope of duties.

18 (6) The legislature or county governments shall designate
19 areas within their respective jurisdictions that shall be exempt
20 from the penalty provisions of section (3). Designated areas
21 shall include portions of geographic areas that have a history



1 of this offense. The designated areas may be described both by
2 geographic boundaries and by time of day limitations."

3 SECTION 2. Section 712-1201, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§712-1201 Promoting prostitution; definition of terms.

6 In sections 712-1202[7] and 712-1203 [~~and 712-1204~~]:

7 (1) A person "advances prostitution" if, acting other than
8 as a prostitute or a patron of a prostitute, [~~he~~] the
9 person knowingly causes or aids a person to commit or
10 engage in prostitution, procures or solicits patrons
11 for prostitution, provides persons for prostitution
12 purposes, permits premises to be regularly used for
13 prostitution purposes, operates or assists in the
14 operation of a house of prostitution or a prostitution
15 enterprise, or engages in any other conduct designed
16 to institute, aid, or facilitate an act or enterprise
17 of prostitution.

18 (2) A person "profits from prostitution" if, acting other
19 than as a prostitute receiving compensation for
20 personally-rendered prostitution services, [~~he~~] the
21 person accepts or receives money or other property
22 pursuant to an agreement or understanding with any



1 person whereby [he] the person participates or is to
2 participate in the proceeds of prostitution activity."

3 SECTION 3. Section 712-1203, Hawaii Revised Statutes, is
4 amended by amending subsection (1) to read as follows:

5 "(1) A person commits the offense of promoting
6 prostitution in the second degree if the person knowingly[+

7 ~~(a) Advances or profits from prostitution by managing,~~
8 ~~supervising, controlling, or owning, either alone or~~
9 ~~in association with others, a house of prostitution or~~
10 ~~a prostitution business or enterprise involving~~
11 ~~prostitution activity by two or more prostitutes; or~~

12 ~~(b) Advances] advances or profits from prostitution of a~~
13 ~~person less than eighteen years old."~~

14 SECTION 4. Sections 712-1204, 712-1206, and 712-1207,
15 Hawaii Revised Statutes, are repealed.

16 ~~["§712-1204 Promoting prostitution in the third degree.~~

17 ~~(1) A person commits the offense of promoting prostitution in~~
18 ~~the third degree if the person knowingly advances or profits~~
19 ~~from prostitution.~~

20 ~~(2) Promoting prostitution in the third degree is a~~
21 ~~misdemeanor.~~



1 ~~{§712-1206} Loitering for the purpose of engaging in or~~
2 ~~advancing prostitution. (1) For the purposes of this section,~~
3 ~~"public place" means any street, sidewalk, bridge, alley or~~
4 ~~alleyway, plaza, park, driveway, parking lot or transportation~~
5 ~~facility or the doorways and entrance ways to any building which~~
6 ~~fronts on any of the aforesaid places, or a motor vehicle in or~~
7 ~~on any such place.~~

8 ~~(2) Any person who remains or wanders about in a public~~
9 ~~place and repeatedly beckons to or repeatedly stops, or~~
10 ~~repeatedly attempts to stop, or repeatedly attempts to engage~~
11 ~~passers by in conversation, or repeatedly stops or attempts to~~
12 ~~stop motor vehicles, or repeatedly interferes with the free~~
13 ~~passage of other persons for the purpose of committing the crime~~
14 ~~of prostitution as that term is defined in section 712-1200,~~
15 ~~shall be guilty of a violation.~~

16 ~~(3) Any person who remains or wanders about in a public~~
17 ~~place and repeatedly beckons to, or repeatedly stops, or~~
18 ~~repeatedly attempts to engage passers by in conversation, or~~
19 ~~repeatedly stops or attempts to stop motor vehicles, or~~
20 ~~repeatedly interferes with the free passage of other persons for~~
21 ~~the purpose of committing the crime of advancing prostitution as~~



1 ~~that term is defined in section 712 1201(1) is guilty of a petty~~
2 ~~misdemeanor.~~

3 ~~§712 1207 Street solicitation of prostitution, designated~~
4 ~~areas. (1) It shall be unlawful for any person within the~~
5 ~~boundaries of Waikiki and while on any public property, to offer~~
6 ~~or agree to engage in sexual conduct with another person in~~
7 ~~return for a fee.~~

8 ~~(2) It shall be unlawful for any person within the~~
9 ~~boundaries of other areas in this State designated by county~~
10 ~~ordinance pursuant to subsection (3), and while on any public~~
11 ~~property, to offer or agree to engage in sexual conduct with~~
12 ~~another person in return for a fee.~~

13 ~~(3) Upon a recommendation of the chief of police of a~~
14 ~~county, that county may enact an ordinance that:~~

15 ~~(a) Designates areas, each no larger than three square~~
16 ~~miles, as zones of significant prostitution related~~
17 ~~activity that is detrimental to the health, safety, or~~
18 ~~welfare of the general public; or~~

19 ~~(b) Alters the boundaries of any existing area under~~
20 ~~paragraph (a);~~

21 ~~provided that not more than four areas may be designated within~~
22 ~~the State.~~



1 ~~(4) Notwithstanding any law to the contrary, any person~~
2 ~~violating this section shall be guilty of a petty misdemeanor~~
3 ~~and shall be sentenced to a mandatory term of thirty days~~
4 ~~imprisonment. The term of imprisonment shall be imposed~~
5 ~~immediately, regardless of whether the defendant appeals the~~
6 ~~conviction, except as provided in subsection (5).~~

7 ~~(5) As an option to the mandatory term of thirty days~~
8 ~~imprisonment, if the court finds the option is warranted based~~
9 ~~upon the defendant's record, the court may place the defendant~~
10 ~~on probation for a period not to exceed six months, subject to~~
11 ~~the mandatory condition that the defendant observe geographic~~
12 ~~restrictions that prohibit the defendant from entering or~~
13 ~~remaining on public property, in Waikiki and other areas in the~~
14 ~~State designated by county ordinance during the hours from 6~~
15 ~~p.m. to 6 a.m. Upon any violation of the geographic~~
16 ~~restrictions by the defendant, the court, after hearing, shall~~
17 ~~revoke the defendant's probation and immediately impose the~~
18 ~~mandatory thirty day term of imprisonment. Nothing contained in~~
19 ~~this subsection shall be construed as prohibiting the imposition~~
20 ~~of stricter geographic restrictions under section 706-624(2)(h).~~

21 ~~(6) Any person charged under this section may be admitted~~
22 ~~to bail, pursuant to section 804-4, subject to the mandatory~~



1 ~~condition that the person observe geographic restrictions that~~
2 ~~prohibit the defendant from entering or remaining on public~~
3 ~~property, in Waikiki and other areas in the State designated by~~
4 ~~county ordinance during the hours from 6 p.m. to 6 a.m.~~
5 ~~Notwithstanding any other provision of law to the contrary, any~~
6 ~~person who violates these bail restrictions shall have the~~
7 ~~person's bail revoked after hearing and shall be imprisoned~~
8 ~~forthwith. Nothing contained in this subsection shall be~~
9 ~~construed as prohibiting the imposition of stricter geographic~~
10 ~~restrictions under section 804-7.1.~~

11 ~~(7) Notwithstanding any other law to the contrary, a~~
12 ~~police officer, without warrant, may arrest any person when the~~
13 ~~officer has probable cause to believe that the person has~~
14 ~~committed a violation of subsection (5) or (6), and the person~~
15 ~~shall be detained, without bail, until the hearing under the~~
16 ~~appropriate subsection can be held, which hearing shall be held~~
17 ~~as soon as reasonably practicable.~~

18 ~~(8) For purposes of this section:~~

19 ~~"Area" means any zone within a county that is defined with~~
20 ~~specific boundaries and designated as a zone of significant~~
21 ~~prostitution by this section or a county ordinance.~~



1 ~~"Public property" includes any street, highway, road,~~
2 ~~sidewalk, alley, lane, bridge, parking lot, park, or other~~
3 ~~property owned or under the jurisdiction of any governmental~~
4 ~~entity or otherwise open to the public.~~

5 ~~"Sexual conduct" has the same meaning as in section 712-~~
6 ~~1200(2).~~

7 ~~"Waikiki" means that area of Oahu bounded by the Ala Wai~~
8 ~~canal, the ocean, and Kapahulu avenue.~~

9 ~~(9) This section shall apply to all counties; provided~~
10 ~~that if a county enacts an ordinance to regulate street~~
11 ~~solicitation for prostitution, other than an ordinance~~
12 ~~designating an area as a zone of significant prostitution-~~
13 ~~related activity, the county ordinance shall supersede this~~
14 ~~section and no person shall be convicted under this section in~~
15 ~~that county."]~~

16 SECTION 5. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun, before its effective date.

19 SECTION 6. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 7. This Act shall take effect upon its approval.

2

INTRODUCED BY: Carol Fukuemaga



Report Title:

Prostitution

Description:

Moves definition of "public place"; makes prostitution a violation subject to a fine up to \$500; authorizes the State and counties to designate areas exempt from the violation penalty; repeals sections on promoting prostitution in the first degree, loitering for the purpose of engaging or advancing prostitution, and designated areas related to street solicitation.

